

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Northern Division**

CHARLES SLAUGHTER,

Plaintiff,

vs.

DR. DANIEL P. EDNEY, in his official capacity as the Mississippi State Health Officer, ET AL.

Defendants.

Civil Action No. 3:20-cv-789-CWR-FKB

RESPONSE BY DR. DANIEL P. EDNEY, IN HIS OFFICIAL CAPACITY AS THE MISSISSIPPI STATE HEALTH OFFICER, TO PLAINTIFF'S COMBINED FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Defendant Dr. Daniel P. Edney, in his official capacity as the Mississippi State Health Officer ("MSDH"), hereby responds to Plaintiff Charles Slaughter's First Set of Interrogatories and Requests for Production of Documents ("Interrogatory") as follows:

GENERAL OBJECTIONS AND LIMITATIONS

MSDH objects to each and every Interrogatory to the extent it seeks information beyond the scope of discovery as provided by the Federal Rules of Civil Procedure and/or the Local Rules of the Southern District of Mississippi, or that purports to impose obligations on MSDH greater than or inconsistent with those imposed by the Federal Rules of Civil Procedure, the Local Rules of the Southern District of Mississippi, and/or the Case Management Order entered in this action.

MSDH objects to Plaintiff's Interrogatories to the extent they exceed the number



information, and as other facts emerge, or if otherwise appropriate under the Federal Rules of Civil Procedure.

MSDH further reserves the right to rely on any facts, information, and/or documents identified, disclosed, or produced in this case, whether described or identified in his Responses to Plaintiff's Interrogatories or not. Subject to and without waiving any of the foregoing Objections or Limitations, MSDH provides the following specific Objections and Responses.

INTERROGATORIES

INTERROGATORY NO. 1: Identify each government interest you contend is advanced by Mississippi's CON program.

RESPONSE NO. 1:

Objection. This request is premature as Discovery has not closed yet.

MSDH objects to Interrogatory No. 1 as vague, ambiguous, overbroad, unduly burdensome, premature, not proportional to the needs of the case, and to the extent it seeks a legal conclusion. MSDH further objects to Interrogatory No. 1 as an inappropriate contention interrogatory seeking disclosure of the mental impressions, conclusions, opinions, legal theories, and/or trial strategy of defense counsel; and to the extent Interrogatory No. 1 could be interpreted to improperly seek information subject to the attorney client privilege, the work product doctrine, the common interest or joint defense privilege, or other applicable privileges.

Without waiving, and limited by those objections, and as MSDH interprets and understands Interrogatory No. 1, the CON program enables MSDH to prevent an oversaturation of HHAs and limit new providers of home health services, both of which advance the State's legitimate and compelling interest in cost savings, as well as promoting access and continuity of care for all Mississippians, as further explained in the authorizing statutes.

Further, under rational basis review applicable to this matter, MSDH has no obligation to provide an exhaustive list of governmental interests that the Court might find were furthered by the CON Laws and Regulations. Rational-basis review does not require a State to produce evidence that a law will achieve its objectives. *See Heller v. Doe*, 509 U.S. 312, 320 (1993) ("A State ... has no obligation to produce evidence to sustain the

RESPECTFULLY SUBMITTED, this the 20th day of June 2023.

Dr. Daniel P. Edney, in his official capacity as the
Mississippi State Health Officer

BY: LYNN FITCH, ATTORNEY GENERAL FOR THE
STATE OF MISSISSIPPI

BY /s/ Stephen Schelver
STEPHEN F. SCHELVER, MSB # 101889

SPECIAL ASSISTANT ATTORNEY GENERAL
Office of the Attorney General
Civil Litigation Division
Post Office Box 220
Jackson, Mississippi 39205
Telephone: (601) 359-3680
Facsimile: (601) 359-2003
Email: stephen.schelver@ago.ms.gov

CERTIFICATE OF SERVICE

I the undersigned attorney do hereby certify that a copy of the above document was provided to all counsel of record.

This the 20th day of June 2023.

/s/ Stephen Schelver
Stephen F. Schelver